

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WILLIAM H. EVANS, JR.,

Plaintiff,

vs.

**Case No.: 2:15-cv-769
JUDGE SMITH
Magistrate Judge Kemp**

**SCIOTO COUNTY COMMON PLEAS
COURT AND JUDGE'S OF GENERAL,
DOMESTIC & PROBATE DIVISIONS, *et al.*,**

Defendants.

ORDER

On March 31, 2016, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's second motion to appeal *in forma pauperis* (Doc. 27) be denied and that Plaintiff be required to pay the full appellate filing fee. (*See Report and Recommendation*, Doc. 28). The parties were advised of their right to object to the *Report and Recommendation*. This matter is now before the Court on Plaintiff's Objection to the Magistrate Judge's *Report and Recommendation*. (*See* Doc. 29). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff's Objections challenge the Magistrate Judge's conclusion that he has "three strikes" and asserts that he has specifically pled the "imminent danger" exception of 28 U.S.C. § 1915(g).

The Court has carefully reviewed the *Report and Recommendation* and Plaintiff's objections. The Court agrees with the findings of the Magistrate Judge that Plaintiff has had

three cases dismissed in the past as frivolous or for failure to state a claim. Pursuant to 28 U.S.C. § 1915(g), a plaintiff may not bring a suit *in forma pauperis* if that prisoner “has, on 3 or more occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the ground that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” Further, the Court agrees with the Magistrate Judge’s findings that Plaintiff has not sufficiently pled in his complaint that he is under imminent danger of serious physical injury. Therefore, for the reasons stated in the *Report and Recommendation*, this Court finds that Plaintiff’s objections are without merit and are hereby **OVERRULED**.

The Clerk shall remove Documents 27 and 28 from the Court’s pending motions list and this case shall remain closed.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT